

FILED

2009 DEC -3 P 1:55

UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

Dec 02, 2009

 UNITED STATES JUDICIAL PANEL
 on RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 MULTIDISTRICT LITIGATION
FILED
CLERK'S OFFICE
 IN RE: CONOCOPHILLIPS CO. SERVICE STATION
 RENT CONTRACT LITIGATION

MDL No. 2040

C09 05702

TRANSFER ORDER

 RMW
 HRL

Before the entire Panel: Plaintiffs in the fourteen Central District of California actions and the Eastern District and Southern District of California actions listed on Schedule A move, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), to vacate our orders conditionally transferring their actions to the Northern District of California for inclusion in MDL No. 2040. ConocoPhillips Co. (ConocoPhillips), the lone defendant in all actions, opposes the motions to vacate.

After considering all argument of counsel, we find that these actions involve common questions of fact with the actions in this litigation previously transferred to the Northern District of California, and that transfer of these sixteen actions to the Northern District of California for inclusion in MDL No. 2040 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. We further find that transfer of these actions is appropriate for reasons that we set out in our original order directing centralization in this docket. In that order, we held that the Northern District of California was a proper Section 1407 forum for actions sharing factual questions arising from ConocoPhillips's alleged plan to raise the rent on its gasoline service stations. *See In re ConocoPhillips Co. Service Station Rent Contract Litigation*, 626 F.Supp.2d 1344 (J.P.M.L. 2009).

Plaintiffs in the actions in MDL No. 2040 and plaintiffs in the actions before the Panel both allege that ConocoPhillips's rent policy violated California law; the lack of federal claims in the actions before the Panel does not negate the commonality. Also, plaintiffs can present any motions to remand to state court to the transferee court. *See, e.g., In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Northern District of California and, with the consent of that court, assigned to the Honorable Ronald M. Whyte for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

I hereby certify that a case has
been opened in the Northern
District of California.

ATTEST:

 RICHARD W. WIEKING
 Clerk, U.S. District Court
 Northern District of California

By

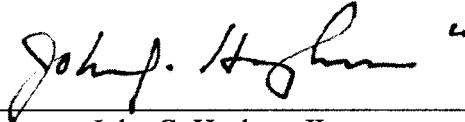
Deputy Clerk

Date

12/4/2009

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PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written over a horizontal line.

John G. Heyburn II
Chairman

Robert L. Miller, Jr.
David R. Hansen
Frank C. Damrell, Jr.

Kathryn H. Vratil
W. Royal Furgeson, Jr.
David G. Trager

**IN RE: CONOCOPHILLIPS CO. SERVICE STATION
RENT CONTRACT LITIGATION**

MDL No. 2040

SCHEDULE A

Central District of California

Albert Deurdulian v. ConocoPhillips Co., C.A. No. 2:09-4322
Hashemyars Service & Oil, Inc. v. ConocoPhillips Co., C.A. No. 2:09-4391
Delek Enterprises, Inc. v. ConocoPhillips Co., C.A. No. 2:09-4392
Beverly Hills Oils, Inc. v. ConocoPhillips Co., C.A. No. 2:09-4395
Hans Onsetop Enterprises, Inc. v. ConocoPhillips Co., C.A. No. 2:09-4397
Lexington Enterprises, Inc. v. ConocoPhillips Co., C.A. No. 2:09-4398
Cal West Distributors, Inc. v. ConocoPhillips Co., C.A. No. 2:09-4410
Fred Jacob v. ConocoPhillips Co., C.A. No. 2:09-5308
Meymarian Brothers, Inc. v. ConocoPhillips Co., C.A. No. 2:09-5309
SBCW Consulting, Inc. v. ConocoPhillips Co., C.A. No. 5:09-1139
Ahmad H. Diab v. ConocoPhillips Co., C.A. No. 5:09-1141
Kibriya Enterprises, Inc. v. ConocoPhillips Co., C.A. No. 8:09-709
Rassol Eftekharian v. ConocoPhillips Co., C.A. No. 8:09-720
Cadnicks, Inc. v. ConocoPhillips Co., C.A. No. 8:09-842

Eastern District of California

MB Service Station, LLC v. ConocoPhillips Co., C.A. No. 2:09-1868

Southern District of California

Marvin Smith v. ConocoPhillips Co., C.A. No. 3:09-1471